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57246 7590 08/12/2009 BRAKE HUGHES BELLERMANN LLP c/o CPA Global P.O. Box 52050 Minneapolis, MN 55402			EXAMINER YANCHUS III, PAUL B	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HOANG TAN TRAN and MARK BERMAN

Appeal 2008-004581
Application 09/886,859
Technology Center 2100

Decided: August 12, 2009

Before JOSEPH L. DIXON, LANCE LEONARD BARRY, and
CAROLYN D. THOMAS, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Patent Examiner rejected claims 1-24. The Appellants appeal therefrom under 35 U.S.C. § 134(a).¹ We have jurisdiction under 35 U.S.C. § 6(b).

INVENTION

The invention at issue on appeal regulates the power consumed by a transceiver in a communications network. More specifically, a monitor detects the presence or absence of received data. In response to the presence or absence of the data, a state machine regulates power consumption. (Spec. 3.)

ILLUSTRATIVE CLAIM

1. A method of regulating transceiver power consumption for a transceiver in a communications network comprising:

monitoring data received by the transceiver to detect a presence of a received data signal; and

controlling a transceiver state machine to regulate transceiver power consumption in response to the presence or absence of the data received;

¹The Appellants "request[] that this honorable Board of Patent Appeals and Interferences reverse the Examiner's decision in this case and indicate the allowability of application claims 1-24." (Appeal Br. 20-21.) In an *ex parte* appeal, however, the Board "is basically a board of review — we review . . . rejections made by patent examiners." *Ex parte Gambogi*, 62 USPQ2d 1209, 1211 (BPAI 2001). We lack authority to indicate the allowability of claims. It is patent examiners who have the authority to indicate such allowability. MPEP §§ 1005, 1302.13.

wherein the transceiver state machine includes a wake-up control and a power down control, the wake-up control being configured to send power control signals to a transmitter and the power down control being configured to send power control signals to all components of the transceiver.

PRIOR ART

BAR-NIV US 6,442,142 B1 Aug. 27, 2002
UPPUNDA US 6,678,728 B1 Jan. 13, 2004
Microsoft Computer Dictionary 527 (5th ed. 2002).

REJECTIONS

Claims 1-5, 11-17, 23, and 24 stand rejected under 35 U.S.C. §102(e) as being anticipated by Bar-Niv.

Claims 6-10 and 18-22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Bar-Niv and Uppunda.

CLAIM GROUPING

Based on the Appellants' arguments (Reply Br. 4-6), we will decide the appeal on the basis of claim 1 alone. *See* 37 C.F.R. § 41.37(c)(1)(vii). "With this representation in mind, rather than reiterate the positions of the parties *in toto*, we focus on the issues therebetween." *Ex Parte Zettel*, No. 2007-1361, 2007 WL 3114962, at *2 (BPAI Oct. 24, 2007).

TRANSMITTER

The Examiner finds that Bar-Niv's "transceiver circuitry would inherently include some type of transmitter." (Ans. 9.) The Appellants

argues that "Bar-Niv does not disclose, either inherently or expressly, that the transceiver circuitry includes a transmitter" (Reply Br. 5.)

ISSUE

Therefore, the issue before us is whether the Appellants have shown error in the Examiner's finding that Bar-Niv's transceiver includes a transmitter.

LAW

"[A]nticipation is a question of fact." *In re Hyatt*, 211 F.3d 1367, 1371-72 (Fed. Cir. 2000) (citing *Bischoff v. Wethered*, 76 U.S. (9 Wall.) 812, 814-15 (1869)). "An anticipatory reference . . . need not duplicate word for word what is in the claims. Anticipation can occur when a claimed limitation is 'inherent' or otherwise implicit in the relevant reference." *Standard Havens Prods. v. Gencor Indus.*, 953 F.2d 1360, 1369 (Fed. Cir. 1991) (citing *Tyler Refrigeration v. Kysor Indus. Corp.*, 777 F.2d 687, 689 (Fed. Cir. 1985)).

FINDINGS OF FACT ("FFs")

1. Bar-Niv "relates . . . specifically to reduction of power consumption by digital communications transceivers." (Col. 1, ll. 6-8.)

2. The reference's "FIG. 1 is a schematic block diagram of a transceiver comprising a signal energy detection system" (Col. 3, ll. 50-51.)

3. "Microsoft Dictionary defines the term transceiver as 'Short for transmitter/receiver. A device that can both transmit and receive signals.'" (Answer 9.)

ANALYSIS

Bar-Niv discloses a transceiver. (FF 1 and 2.) A transceiver is defined as a device that can both transmit and receive signals. (FF 3.) We agree with the Examiner's explanation that "by definition, [the reference's] transceiver circuitry must include some type of transmitter to perform the required transmitting of signals." (Answer 9-10.) The Appellants do not address, let alone show error in the Examiner's explanation.

CONCLUSION

Based on the aforementioned facts and analysis, we conclude that the Appellants have shown no error in the Examiner's finding that Bar-Niv's transceiver includes a transmitter.

WAKE-UP CONTROL AND POWER DOWN CONTROL

The Examiner finds that "Bar-Niv discloses an energy-on state machine and power module which together act as both a wake-up control and a power down control for the transceiver." (Ans. 8.) The Appellants make the following argument:

Nowhere does Bar-Niv disclose a control which sends power control signals to a transmitter and a control which sends power control signals to all components of the transceiver. Rather, Bar-Niv only discloses a power module that supplies power to the transceiver circuitry when the ENERGYON signal is at

level 1 (Bar-Niv, Column 4, lines 15-16 and Column 6,
line 30).
(Reply Br. 5.)

ISSUE

Therefore, the issue before us is whether the Appellants have shown error in the Examiner's finding that Bar-Niv discloses a wake-up control and a power down control.

LAW

"[T]he PTO gives claims their 'broadest reasonable interpretation.'" *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d at 1372). "Moreover, limitations are not to be read into the claims from the specification." *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (citing *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989)).

FINDING OF FACT

3. Bar-Niv's energy detection system "generate[s] a signal ENERGYON." (Col. 5, l. 63.) "The ENERGYON signal is transferred to power module 30 (FIG. 1). When the ENERGYON signal is at level 1, module 30 supplies power to transceiver circuitry 32. When the ENERGYON signal is at level 0, module 30 powers-down circuitry 32." (Col. 6, ll. 28-32.)

ANALYSIS

We agree with the Examiner that claim 1 "do[es] not recite the limitation of the wake-up control and power-down control being separate

'elements.' The claims merely recite 'a wake-up control and a power down control.'" (Answer 9.)

Turning to the reference, Bar-Niv's energy detection system generates an ENERGYON signal and transfers the signal to power module 30. (FF 3.) When the ENERGYON signal is at level 1, the module supplies power to transceiver circuitry. (FF 3.) We agree with the Examiner's finding that such supplying of power constitutes wake-up control. When the ENERGYON signal is at level 0, the module powers-down the transceiver circuitry. (FF 3.) We also agree with the Examiner's finding that such powering-down constitutes power down control.

CONCLUSION

Based on the aforementioned facts and analysis, we conclude that the Appellants have shown no error in the Examiner's finding that Bar-Niv discloses a wake-up control and a power down control.

DECISION

We affirm the rejections of claims 1-24.

No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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Application 09/886,859

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